

FLOYD COUNTY ORDINANCE 2001- VII
AN ORDINANCE REGULATING CERTAIN OUTDOOR ILLUMINATING DEVICES

WHEREAS, on the 5th day of September, 1967, the Board of Commissioners of the County of Floyd duly adopted Ordinance A67-4, being the Floyd County Zoning Ordinance, which ordinance has been amended and modified, from time to time; and

WHEREAS, the Board of Commissioners of the County of Floyd is desirous of further amending said ordinance in the particulars as hereinafter set forth.

NOW THEREFORE:

BE IT ORDAINED that Floyd County Ordinance A67-4 be, and the same hereby is, amended by the addition of the following:

ARTICLE 1. Purpose and Intent

SECTION 1. The control and regulation of certain outdoor lighting practices is deemed proper and necessary to prevent misdirected or excessive light, glare, light trespass (nuisance light), and/or unnecessary skyglow, and such control and regulation is further deemed necessary to protect the health, well-being, and quality of life of the citizens of Floyd County, Indiana, and those persons who shall travel the streets, roads, and highways located therein. It is, therefore, the intent of this ordinance to encourage lighting practices which will minimize light pollution, glare, and light trespass; promote the conservation of energy; and assure the safety, security, and productivity of all persons.

SECTION 2. The terms and provisions of this ordinance shall be deemed an amendment to and become a part of Floyd County Zoning Ordinance A67-4, as said ordinance became effective on September 5, 1967, and as said ordinance has been heretofore amended from time to time.

ARTICLE 2. Application and Jurisdiction

This ordinance and the rules, regulation, and requirements herein contained shall be applicable within the planning jurisdiction of the Floyd County Plan Commission, namely, in those unincorporated areas of Floyd County, Indiana, which lie outside of the legally acquired planning areas of the Civil City of New Albany and the town of Georgetown, Indiana, all as such and similar planning areas may be established and modified, from time to time, in accordance with the provisions of IC 36-7-4, et seq.

ARTICLE 3. Definitions

As used in the Ordinance, unless the context clearly indicates otherwise, the common definition of the following terms and phrases shall be deemed to include the following:

Fixture - The assembly that holds the lamp (bulb) in a lighting system, and includes such parts as a reflector, refractor, the ballast, housing, and the attachment parts.

Floodlight - A bulb which projects light in a specific direction in a wide beam, typically 100 degrees or more.

Foot-Candle - A unit of measurement of the amount of light striking a surface equal to one lumen per square foot.

Fully Shielded - A light fixture which prevents all upward transmission of light, and which, as installed, obstructs a line of sight to the bulb when viewed from the property line at a point at or above a horizontal plane running through the lowest portion of the fixture.

Glare - The sensation experienced by an observer with a direct line of sight to a light source, exceeding the level to which the observer's eyes are adapted, which often results in annoyance, discomfort, or visual impairment.

Horizontal Foot-Candles - The amount of light striking a horizontal surface.

Illumination - The amount of light striking a surface per unit of area of the surface.

Installed - The attachment or fixing in place of an outdoor light fixture, whether or not same is connected to a power source.

Light Source - The bulb and lens, diffuser, or reflective enclosure, or other parts intended to distribute light.

Light Trespass - Light projected onto a property from a fixture not located on that property.

Lumen - A measure of the amount of light emitted from a bulb. For purposes of this ordinance the term shall refer to the light output specification of a new bulb provided by the manufacturer.

Outdoor Illuminating Device - Light sources, reflective surfaces, lamps, fixtures, or similar devices, whether portable or permanently installed, used for illumination or advertisement which are not located within an enclosed structure.

Partially Shielded - A light fixture shielded or constructed so that no more than ten percent of the light rays are emitted by the installed fixture at angles above the horizontal plane.

Spotlight - A bulb which projects light in a specific direction in a narrow beam, typically 45 degrees or less.

Vertical Foot-Candles - The amount of light striking a vertical surface.

ARTICLE 4. Exemptions.

The following illuminating devices are expressly exempted from the application of this ordinance:

1. All light sources located within a building or other enclosed structure.
2. A residential light source utilizing an incandescent lamp of less than 160 watts, but not including flood or spot lights.

3. A manually switched residential light source or one activated by a motion sensing device (including flood and spot lamps) used to illuminate a residential dwelling, farm building, or other structure and/or surrounding grounds, but only if used intermittently, for brief intervals, as emergency or security lighting.
4. A light source of any description which is at least partially shaded and which is not otherwise prohibited by this ordinance, if located so as not to produce illumination which is visible from an adjoining occupied property or public street or highway.
5. An outdoor light fixture producing light directly by the combustion of natural gas or other fossil fuels.
6. Traffic control lighting fixtures to include street lighting erected by or at the instance and request of a governmental entity.
7. Outdoor lighting fixtures utilizing gas tubes filled with neon, argon, krypton or similar gas.

ARTICLE 5. Conformance

All non-exempt outdoor illuminating devices shall be installed, operated, and maintained in accordance with this ordinance, and the laws, rules, codes, and regulations of each local, state, or federal entity or agency having jurisdiction, if any, PROVIDED, any such non-exempt illuminating device in use as of the effective date of this ordinance shall not be deemed to violate the shielding, line of sight, or maximum illumination requirements or limitations of this ordinance if:

- (1) there is no change in use of the device or bulb type, and,
- (2) devices used to illuminate outdoor advertising signs are brought into compliance with said requirements and limitations on or before the third anniversary of the effective date of this ordinance, and
- (3) any other non-exempt device is brought into compliance on or before the seventh anniversary of such date.

ARTICLE 6. Prohibited Acts

It shall be a violation of this ordinance for any person, firm, partnership, joint venture, corporation or other legal entity:

1. To erect, operate, or maintain any non-exempt outdoor illuminating device except in accordance with the provisions of this Ordinance.
2. To install, erect, or maintain any non-exempt outdoor illuminating device which shall not be shielded as follows:

FIXTURE LAMP TYPE

SHIELDING

- | | |
|-------------------------------|-----------|
| Low Pressure Sodium | Partially |
| * High Pressure Sodium | Partially |
| Quartz | Fully |
| ** All other lighting sources | Fully |
- * 100 watts or less used for residential security.
** Outdoor advertising signs constructed of translucent materials and wholly lighted from within need not be shielded.

3. To erect, operate, or maintain one or more non-exempt outdoor illuminating devices which shall, in aggregate, create a maximum illumination which exceeds 0.1 horizontal foot-candles and 0.1 vertical foot-candles, as measured: (1) at a distance of five (5) feet within the property line of an adjacent (occupied) residential parcel, or (2) at a distance of ten (10) feet within the property line of an adjacent (occupied) commercial or industrial parcel, or (3) from the traveled portion of a public street, road, or highway.
4. To erect, operate, or maintain a non-exempt outdoor illuminating device which permits a line of site to its bulb by an observer who is level with or higher than the ground below the fixture, if viewed from a distance of five (5) feet within the property line of an adjacent (occupied) residential parcel or from the traveled portion of a public street, road, or highway.
5. To illuminate any outdoor advertising sign by means of one or more outdoor illuminating devices which:

(1) are not mounted on or at the level of the top of the sign structure, or (2) permit line of sight to its bulb when viewed at the edges of the sign or beyond, or (3) that create, in aggregate, a maximum illumination on the vertical surface of the sign which exceeds 3.0 foot candles.

6. To erect, install, or operate any outdoor illuminating device which utilizes a mercury vapor lamp or bulb.
7. To erect, install, operate, or maintain on any telephone, television, radio, microwave, electrical transmission, or similar tower or structure, any outdoor illuminating device which: (1) is not required by a local, state, or federal agency or entity having jurisdiction, or (2) which produces an illumination which exceeds the minimum required by such agency or entity, or (3) which is not red in color, unless a color other than red is required by such agency or entity.

ARTICLE 7. Special Exceptions/Appeals

Any person aggrieved by the strict application of the terms of this ordinance may appeal the application thereof to the Floyd County Board of Zoning Appeals, and any such application shall be deemed a special exception and shall be governed by the provisions of IC 36-7-4-900, et seq., the provision of Floyd County Ordinance A 67-4, as amended, and the provision of this ordinance.

ARTICLE 8. Enforcement

SECTION 1. Except as otherwise expressly set forth herein, and except in those instances of a violation of a statute, rule, or regulation having an established penalty or remedy therefor, enforcement of this Ordinance as against a person violating the terms and provisions of same shall be in accordance with the provisions of I.C. 34-4-32, et seq. An action to enforce this ordinance shall be brought in the name of Floyd County, Indiana, or the Floyd County Plan Commission, or the Floyd County Board of Zoning Appeals, as appropriate, and upon proof by a preponderance of the evidence of a violation hereof, judgment shall be entered against the defendant for a sum of not less than \$50.00 nor

more than \$1,000.00 for each violation. A separate violation of this Ordinance shall be deemed to occur for each day that a person shall be in violation of the terms and provisions hereof.

SECTION 2. In addition to the remedy set forth in Section 1 of this Article, an action may be brought for mandatory or injunctive relief as against any person violating the terms and provisions of this Ordinance, which action shall be brought in the name of Floyd County, Indiana, or the Floyd County Plan Commission, or the Floyd County Board of Zoning Appeals, as appropriate.

SECTION 3. To the extent permitted by law and this Ordinance, an action under Section 1 of this Article may be joined with an action under Section 2, and to any judgment in favor of the Plaintiff there shall be added costs of the action, reasonable attorney fees, and expenses incurred in the enforcement of this Ordinance.

SECTION 4. In all actions under this Article, Floyd County, Indiana, and/or the Floyd County Plan Commission, and/or the Floyd County Board of Zoning Appeals shall be represented by the attorney retained by said Commission or Board of Appeals.